

provisions of the Lender Liability Rule as enforcement policy. EPA and DOJ endorse the interpretations and rationales announced in the Rule and its preamble. The purpose of this memorandum is to provide guidance within EPA and DOJ on the exercise of enforcement discretion in determining whether particular lenders and government entities that acquire property involuntarily may be subject to CERCLA enforcement actions. In making such determinations, EPA and DOJ personnel should consult both the regulatory text of the Rule and the accompanying preamble language in exercising their enforcement discretion under CERCLA as to lenders and government entities that acquire property involuntarily.<sup>5</sup>

After the promulgation of the Lender Liability Rule, but prior to its invalidation, several district and circuit courts adhered to the terms of the Rule or interpreted the statute in a manner consistent with the Rule.<sup>6</sup> Moreover, notwithstanding the Rule's invalidation in *Kelley*, since that decision several courts have also interpreted the statute in a way that is consistent with the Rule.<sup>7</sup> EPA and DOJ believe that this case law is further evidence of the reasonableness of the agencies' interpretation of the statute, as embodied formerly in the Rule and now in this policy statement.

### III. Use of This Policy

The policies and procedures established in this document and any internal procedures adopted for its implementation are intended solely as guidance for employees of EPA and DOJ. They do not constitute rulemaking and may not be relied on to create a right or benefit, substantive or procedural, enforceable at law, or in equity, by any person. EPA and DOJ reserve the right to act at variance with this guidance or its internal implementing procedures.

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## FEDERAL COMMUNICATIONS COMMISSION

[IB Docket No. 95-118, FCC 95-286]

### Notice of Public Information Collections for Streamlining the International Section 214 Authorization Process and Tariff Requirements submitted to OMB for Review and Approval

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice.

**SUMMARY:** On July 17, 1995, the Federal Communications Commission released a Notice of Proposed Rulemaking (NPRM) to streamline the international Section 214 authorization process and tariff requirements. This NPRM, published in the Federal Register on July 25, 1995, Volume 60, page 37989, contains proposed or modified information collections subject to the Paperwork Reduction Act of 1995 (PRA), Pub. L. No. 104-13. It has been submitted to the Office of Management and Budget (OMB) for review under Section 3507(d) of the PRA. OMB, the general public, and other Federal agencies are invited to comment on the proposed or modified information collections contained in this proceeding.

**DATES:** Written comments by the public on the proposed and/or modified information collections are due January 10, 1996. Written comments must be submitted by OMB on the proposed and/or modified information collections on or before February 9, 1996.

**ADDRESSES:** Submit all comments to Dorothy Conway, Federal Communications Commission, Room 234, 1919 M Street, NW., Washington, DC 20554, or via the Internet to [dconway@fcc.gov](mailto:dconway@fcc.gov), and to Timothy Fain, OMB Desk Officer, 10236 NEOB, 725 - 17th Street, NW., Washington, DC 20503 or via the Internet to [fain\\_t@al.eop.gov](mailto:fain_t@al.eop.gov).

**FOR FURTHER INFORMATION CONTACT:** For additional information concerning the information collections contained in this NPRM contact Dorothy Conway at 202-418-0217, or via the Internet at [dconway@fcc.gov](mailto:dconway@fcc.gov).

**SUPPLEMENTARY INFORMATION:** The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collections contained in this NPRM. Comments should address: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall

have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

**OMB Approval Number:** New Collection.

**Title:** Streamlining the International Section 214 Authorization Process and Tariff Requirements.

**Form No.:** N/A.

**Type of Review:** New collection.

**Respondents:** Business or other for-profit.

**Number of Respondents:** 431 per year.

**Estimated Time Per Response:** 8 hours.

**Total Annual Burden:** 3448 hours.

**Needs and Uses:** The NPRM proposes to streamline the international Section 214 authorization process and tariff requirements. The proposed rules would greatly reduce the regulatory burdens on applicants, authorized carriers, and the Commission. The NPRM proposes to reduce the need for carriers to file multiple applications by enabling a non-dominant carrier to obtain a global Section 214 authorization, which is not limited to specific carrier facilities, and by eliminating several regulatory requirements that require carriers to file multiple Section 214 applications. The global Section 214 authorization would allow carriers to provide international services on a facilities-basis to virtually all points in the world, using any licensed facility. This authorization would be subject to an exclusion list that the Commission would publish identifying countries or facilities for which there are restrictions. In regard to the regulatory requirements being removed, Section 63.01 is proposed to be amended to make it applicable only to applications for domestic Section 214 authority. A new rule is proposed that will detail the application requirements for international Section 214 authority, and include the provisions for filing a global Section 214 application. In addition, the proposed rule will enable resellers to provide international resale services via any authorized common carrier, except those affiliated with the reseller, without obtaining additional authority. Also, private line resale carriers would be able to resell interconnected private lines for switched services to all designated "equivalent" countries, without obtaining additional authority to serve each equivalent country. And, Section

<sup>5</sup> See 57 Fed. Reg. 18,344 (April 29, 1992) (text and preamble).

<sup>6</sup> See *Northeast Doran, Inc. v. Key Bank of Maine*, 15 F.3d 1 (1st Cir. 1994); *United States v. McLamb*, 5 F.3d 69 (4th Cir. 1993); *Waterville Indus., Inc. v. Finance Authority of Maine*, 984 F. 2d 549 (1st Cir. 1993); *United States v. Fleet Factors*, 901 F.2d 1150 (11th Cir. 1990), *on remand*, 821 F. Supp. 07 (S.D. Ga. 1993); *Kelley v. Tiscornia*, 810 F. Supp. 901 (W.D. Mich. 1993); *Grantors to the Silresim Site Trust v. State Street Bank & Trust Co.*, 23 ELR 20428 (D. Mass. Nov. 24, 1992).

<sup>7</sup> See *Z & Z Leasing, Inc. v. Graying Reel, Inc.*, 873 F.Supp. 51 (E.D. Mich. 1995); *Kemp Industries, Inc. v. Safety Light Corp.*, 857 F.Supp. 373 (D.N.J. 1994).

63.15 is proposed to be amended to enable carriers to add circuits on private satellite or cable systems, without obtaining prior authority. The NPRM also proposes to simplify the Section 214 and cable landing license application process by reducing the detailed information now required in Sections 63.01 and 1.767. The NPRM also proposes to encourage filing of international Section 214 applications electronically and on computer disk, and to require that any information contained in an application in a foreign language be accompanied with a certified translation in English.

The NPRM further reduces filing requirements by allowing dominant carriers to automatically convey transmission capacity in submarine cables to other carriers without obtaining prior Section 214 authority. Also, the NPRM proposes to further streamline the tariff requirements for non-dominant international resale and facilities-based carriers by permitting them to file their international tariffed rates on one day's notice instead of the current 14 days' notice, and seeks comment, in general, on whether to streamline the international tariff process. However, these tariff related proposals are not subject to the PRA.

Finally, the Commission seeks comments on what, if any, Section 214 authorization requirements it should forbear from applying if given forbearance authority by Congress.

Federal Communications Commission.

William F. Caton,

*Acting Secretary.*

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### **Schedule for En Banc Hearing, Advanced Television Proceeding**

December 6, 1995.

The schedule for the Federal Communications Commission's December 12, 1995 *en banc* hearing on Advanced Television, MM Docket No. 87-268, is as follows:

8:30-8:45 a.m.—Opening remarks from the Commission

8:45-10:15 a.m.—Commercial Opportunities of Digital Broadcast

The transition to digital broadcast is fraught with risk and uncertainty yet promises rich rewards if successful. Panelists discuss the opportunities and challenges created by the transition to digital television. Issues to be explored include whether digital technology will allow broadcasters to compete in an increasingly challenging video marketplace, how will they finance the

transition, what is the impact on their competitors?

Richard E. Wiley, Chairman, Advisory Committee on Advanced Television Services

Steven Rattner, Managing Director, Lazard Freres & Co

Ed Grebow, President, TELETV Systems, TELETV

Neil Braun, President, NBC Television Network, NBC, Inc.

John Hendricks, Chairman and CEO, Discovery Communications, Inc./NCTA

Stanley Hubbard, Chairman and CEO of Hubbard Broadcasting, Inc.

Lawrence Grossman, President, Brookside Productions & Horizons Cable

10:30 a.m.—noon—The Public Interest, Convenience and Necessity

The Commission's current public interest rules, including those mandating specific statutory requirements, were developed for broadcasters essentially limited by technology to a single, analog video programming service. Panelists discuss the potential for more flexible and dynamic use of the spectrum through digital broadcast and its impact on broadcasters' obligation to serve the public interest.

Gigi Sohn, Deputy Director, Media Access Project

Alan Braverman, Vice President and General Counsel, Cap Cities/ABC

Barry Diller, Chairman, Silver King Communications

Faye Anderson, President, Douglass Policy Institute

David Honig, Executive Director, Minority Media and Telecommunications Council

John Siegel, Sr. Vice President, Chris Craft Industries/INTV

1:30-3:00 p.m.—Digital Applications

The digital transmission system designed by the Grand Alliance would provide broadcasters with new flexibility as they embark on serving the American public with the next generation of television. Allowing some flexibility would increase the ability of broadcasters to compete in an increasingly competitive marketplace. Panelists discuss potential for new applications to complement broadcast video as well as look to the future for services made possible on recovered channels.

Ed Horowitz, Senior Vice President of Technology, Viacom

George Keyworth, Chairman, Progress and Freedom Foundation

James C. McKinney, Chairman, Advanced Television Systems Committee

Edward Reilly, President, McGraw-Hill Broadcasting/MSTV

John Major, Senior Vice President and Assistant Chief Corporate Staff Officer, Motorola

James Carnes, President and CEO, Sarnoff/Grand Alliance

Joseph A. Flaherty, Senior Vice President, Technology, CBS Inc./ATSC Broadcast Caucus

3:15-4:30 p.m.—Impact on Consumers

While a transition to digital broadcast promises many benefits, the public interest would be served by avoiding any substantial dislocation of service to existing viewers. With many competing services coming on line, greater incentives exist for broadcasters to convert rapidly to digital broadcast. Panelists discuss the expected impact on consumers as it relates to deployment of new equipment and services, the ability of broadcasters to continue to serve their audience during the transition, the opportunities for improved service and technology and the extent to which consumers' value is enhanced such that analog transmission may be terminated.

Bruce Allan, Vice President, Technology & Business Development, Thompson Consumer Electronics

Sherwin Grossman, President, Community Broadcasters Association (CBA)

John Abel, President and CEO, Datacast Partners

Ralph Gabbard, President/COO of Gray Communications/NAB

David Liroff, Vice-President and Chief Technology Officer, WGBH Educational Foundation

The hearing will take place Tuesday, December 12, 1995, from 8:30 a.m. to 4:30 p.m. in the Commission Meeting Room, Room 856, 1919 M St., NW., Washington, DC, and is open to the public. Concurrently, digital television technology demonstrations, also open to the public, will be presented. These demonstrations will be available for viewing Tuesday, December 12 from 8:30 a.m. to 5:30 p.m. in the Commission's Training Center located on the first floor of 2000 M St., NW., Washington, DC. The Commission may alter the schedule of demonstrations and panelists if necessary.

Scheduled demonstrations will be presented by:

The Digital HDTV Grand Alliance  
CBS, Inc.

Hitachi America, Ltd.

Hubbard Broadcasting, Inc.

Microsoft Corporation

Sony Corporation of America

Texas Instruments

For the hearing impaired, an ASL interpreter will translate the hearing. Video tapes, which will be closed captioned, and written transcripts of the hearing will be available for a fee.

For further information about the hearing, please contact Saul Shapiro at (202) 418-2600. The contacts for media coverage are Karen Watson, David Fiske,